

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0497P

Use Tax

Calendar Years 1995, 1996, 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is a construction contractor with corporate headquarters in Indiana performing lump sum construction jobs across the United States and in foreign countries.

Taxpayer failed to remit use tax on clearly taxable items, which were issues in a prior audit completed on August 9, 1993.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer's audit report revealed that items assessed in a prior audit were also issues in the current audit.

Taxpayer states it remitted approximately eighty percent (80%) in taxes not previously charged by various vendors and consolidating that number with hundreds of thousands of dollars of sales tax paid directly on vendor invoices the ten percent (10%) penalty seems rather severe. Taxpayer requests a waiver of penalty.

Taxpayer was previously audited with similar issues and failed to properly monitor the use tax accrual system.

04980497P.LOF
PAGE #2

FINDING

Taxpayer's protest is denied.